UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORKX	
MARIO A. TAPIAS,	C N 10 CV 42/0
Plaintiff,	Case No. 19-CV-4369
-against-	<u>ANSWER</u>
ONLINE INFORMATION SERVICES, INC.,	
Defendant.	
X	

Defendant, Online Information Services, Inc. ("Defendant"), by its attorneys, L'Abbate, Balkan, Colavita & Contini, L.L.P., as and for its Answer to the Endorsed Complaint (the "Endorsed Complaint") of Plaintiff, Mario A. Tapias ("Plaintiff"), sets forth as follows:

1. Denies each and every allegation contained in Plaintiff's Endorsed Complaint dated July 12, 2019.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, were sustained from intervening acts of third parties over whom the Defendant exercises no control.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

The damages purportedly sustained by Plaintiff, as alleged in the Endorsed Complaint, were caused, in whole or in part, by his own negligence, recklessness, carelessness and/or culpable conduct of Plaintiff.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Defendant is not liable for any alleged violations, which are specifically denied herein, since it maintained reasonable procedures to assure compliance with the applicable provisions of the Fair Credit Reporting Act ("FCRA").

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiff has no cause of action under the FCRA since Defendant did not inaccurately or incompletely report information about Plaintiff.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part since she did not suffer any damages.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

Any violations of the Fair Debt Collection Practices Act alleged by Plaintiff, which violations are specifically denied by Defendants herein, were not intentional and resulted, if at all, from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate his alleged damages.

WHEREFORE, Defendant demands judgment dismissing the Endorsed Complaint, together with the costs and disbursements of this action, plus such other and further relief as this Court may deem just and proper.

Dated: Garden City, New York August 1, 2019

L'ABBATE, BALKAN, COLAVITA & CONTINI, L.L.P.

By:

Matthew J. Bizzaro, Esq.

Attorneys for Defendant

ONLINE INFORMATION SERVICES, INC.

1001 Franklin Avenue

Garden City, NY 11530

(516) 294-8844

TO: Mario A. Tapias

3040 21st Street, Apt. 407 Astoria, NY 11102-4455

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

Denise Mitchell, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Nassau County, New York.

That on the 1st day of August, 2019, deponent served the within **ANSWER** upon:

Mario A. Tapias 3040 21st Street, Apt. 407 Astoria, NY 11102-4455

the respective party(ies) in this action, at the above address(es) designated by said party(ies) for that purpose, by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

DENISE MITCHELL

Sworn to before me this 1st day of August, 2019.

Notary Public 6

MIRANDA A. JOE Notary Public, State of New York No. 01JO6158380 Qualified in Nassau County Commission Expires January 2, 2019

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